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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/768,263	01/30/2004	Kenneth Ray Ward	09401-0104	5953
3490	7590	06/12/2007	EXAMINER	
DOUGLAS T. JOHNSON			KIM, CHRISTOPHER S	
MILLER & MARTIN			ART UNIT	PAPER NUMBER
1000 VOLUNTEER BUILDING			3752	
832 GEORGIA AVENUE				
CHATTANOOGA, TN 37402-2289				
MAIL DATE		DELIVERY MODE		
06/12/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/768,263	WARD ET AL.	
	Examiner Christopher S. Kim	Art Unit 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 30 November 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-3,5-9,11-14 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3,5-9,11-14 and 16-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 30 January 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 7, 2007 has been entered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "seal...integral to ...the...nozzle body" recited in claim 1 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure

is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

4. Claim 1-3, 5-9, 11-14 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "nozzle body" in 27. There is insufficient antecedent basis for this limitation in the claim.

Claims 2, 8 and 13 recite "wherein said seal comprises ribs on said conduit." Their parent claim 1 recites "a seal...integral to at least one of the conduit and nozzle body..." Claims 2, 8 and 13 are indefinite where claim 1 defines a seal integral to the nozzle body.

***Claim Rejections - 35 USC § 102***

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5. Claims 1, 3, 5-7, 9, 11, 12, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Hinchman (2,517,877).

Hinchman discloses an adjustable gas nozzle comprising: a nozzle body member 8; a conduit 7; an adjusting member 25, 26 having a first end 25 with a first restricted orifice (orifice of 29 upstream of 27) and a second end 26; a second orifice 33; a first passageway 29,33; a coupling 16; a by-pass passageway 18; cooperative surfaces 19, 27; cooperating means 12, 32; a seal 15.

***Claim Rejections - 35 USC § 103***

6. Claims 1, 3, 5-7, 9, 11, 12, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ridenour (5,025,990) in view of Ito (4,432,496).

Ridenour discloses an adjustable gas nozzle comprising: a nozzle body member 12; a conduit 13; an adjustment member 14; a coupling 13 (threads); a by-pass passageway 35; cooperative surfaces 22,25; cooperating means 31, 32.

Ridenour differs from what is being claimed in the seal being distinct from the coupling. Ito teaches an integral seal 28 between the conduit 27 and nozzle body member 41. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided the seal of Ito to the device of Ridenour to prevent accidental removal of the nozzle body member.

7. Claims 1-3, 5-9, 11-14 and 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ridenour (5,025,990) in view of Hollinshead et al. (6,164,569).

Ridenour discloses an adjustable gas nozzle comprising: a nozzle body member 12; a conduit 13; an adjustment member 14; a coupling 13 (threads); a by-pass passageway 35; cooperative surfaces 22,25; cooperating means 31, 32.

Ridenour differs from what is being claimed in the seal being distinct from the coupling. Hollinshead teaches an integral seal ribs 104 on conduit 66 distinct from coupling 84. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided the seal ribs of Hollinshead to the device of Ridenour to improve the seal.

### ***Response to Arguments***

8. Applicant's arguments filed May 7, 2007 have been fully considered but they are not persuasive.

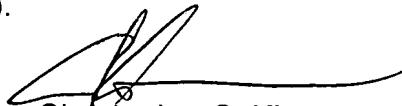
Regarding applicant's argument directed to the functioning of the by-pass passageway, as stated in the prior Office action, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function. See MPEP 2114.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (571) 272-4905. The examiner can normally be reached on Monday - Friday, 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher S. Kim  
Primary Examiner  
Art Unit 3752

CK